**S.B. CIVIL WRIT PETTION NO.7477/2006**
**Bombay Stock Exchang Ltd & Ors.**
**vs**
**Vikas WSP Ltd. & Ors.**

**DATE OF ORDER : 20.12.2006**

**HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ**

Shri Jagdish Vyas, for the petitioners.
Shri Rajendra Mehta, for the respondent no.1-caveator.

**<><><>**

Heard Shri Jagdish Vyas learned counsel for the petitioner as well as Shri Rajendra Mehta, learned counsel for the respondent no.1-caveator. Since respondents no.3 to 11 are only performa respondents, therefore their service is dispensed with.

Learned counsel for the petitioner has argued that a suit has been filed by the plaintiff against the suspension of trading in their security in the court of District Judge, Sri Ganganagar. The Section 22E of the Securities Contracts (Regulation) Act,

1956 provides that no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the said Act. According to learned counsel for the petitioner, only remedy for the plaintiff-respondent in the present matter could be to approach the Securities Appellate Tribunal. Inspite of the fact that petitioners have raised preliminary objections with regard to maintainability of that suit and requested the learned District Judge, Sri Ganganagar to decide such objection as preliminary issue. Objection with regard to maintainability of the suit with reference to Section 22E of the said Act in para no.5(b) of the written statement. The learned District Judge, Sir Ganganagar by order dated 8.12.2006 has rejected their prayer and has directed to take up this issue alongwith other issues after recording of evidence of both the parties.

Learned counsel for the respondent no.1- caveator could

not dispute this position.

Having heard learned counsel for the parties, I am of the view that the issue with regard to exclusive jurisdiction of the Securities Appellate Tribunal and the bar contained in Section 22E of the said Act against the maintainability of such suit in any civil court is an issue, which needs to be determined as preliminary issue. Section 23L provides for the remedy of appeal against the order of suspension of trading in securities of the plaintiff. This issue will go to the root of the matter and therefore it is required to be determined earlier than all other issues.

In the facts of this case, the order passed by the learned District Judge, Sri Ganganagar dated 8.12.2006 is set aside and it is directed that the said court shall take up the issue with regard to objection as to maintainability of the suit as pointedly raised in para no.5B of the written statement as a preliminary issue and decide it as expeditiously as possible. However, it is clarified that the objection with regard to territorial jurisdiction

raised in para 5(a) of the written statement, which may be partly covered by issue no.7 shall also be taken up alongwith other issues .

The writ petition is accordingly allowed with no order as to costs.

**(MOHAMMAD RAFIQ), J.**

cpgoyal/-